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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Gero G. McClellan
Moser, Patterson & Sheridan, L.L.P.
Suite 1500
3040 Post Oak Boulevard
Houston, TX 77056-6582

EXAMINER	
NGUYEN, PHUNG	

ART UNIT	PAPER NUMBER
2632	

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/041,937	NEE, WRIGHT JACKEN	
	Examiner	Art Unit	
	Phung T Nguyen	2632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *19 February 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,2,4-6,8,11,13-16,18,21,23 and 40-51* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,2,4-6,8,11,13-16,18,21,23 and 40-51* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1, 2, 4-6, 8, 11, 13-16, 18, 21, 23, 41-44, and 47-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nappholz et al. (U.S. Pat. 5,720,770).

Regarding claim 1: Nappholz et al. disclose a cardiac stimulation system with enhanced communication and control capability comprising:

a. receiving a wireless signal from the implanted medical device (figure 1, col. 3, lines 61-67, and col. 4, lines 1-5);

b. transmitting, by an external communications device 14, the distress call in the form of a voice synthesized message (figure 1, col. 6, lines 45-50, and col. 10, lines 11-20) to a remote location (col. 4, lines 6-16, col. 5, lines 15-18, and col. 10, lines 11-15);

Nappholz et al. do not directly disclose the voice synthesized message providing information about a nature of the human subject's condition as claimed. Since Nappholz et al. disclose the primary function of the cardiac stimulation device 12 is to monitor the heart of the patient (col. 10, lines 1-4) and exchanges signals between the device and the outside world, it would have been obvious to one of ordinary skill in the art to recognize that the system of Nappholz et al. is not only monitoring the heart of the patient but also providing information about a nature of the human subject's condition.

Regarding claim 2: Nappholz et al. disclose the wireless signal is indicative of a medical emergency experienced by a human being wearing the implanted medical device (col. 10, lines 1-15).

Regarding claim 4: Nappholz et al. disclose the wireless signal is indicative of a medical emergency (col. 10, lines 11-15).

Regarding claim 5: Nappholz et al. disclose the distress call containing vital data pertaining to an organ being monitored by the implanted medical device (col. 10, lines 1-15).

Regarding claim 6: Nappholz et al. disclose the distress call containing location information (col. 10, lines 15-28).

Regarding claim 8: Nappholz et al. disclose the implanted medical device comprising one of a pacemaker, and implantable cardioverter defibrillator and a combination thereof (col. 4, lines 3-35).

Regarding claim 11: Nappholz et al. disclose the implanted medical device comprising a transmitter configured to transmit the wireless signal and a heart regulating device (col. 5, lines 8-18).

Regarding claim 13: Nappholz et al. disclose an implanted medical device worn by a human subject and comprising a wireless transmitter for issuing a wireless signal (figure 1, col. 4, lines 1-5), a wireless external receiver configured to receive the wireless signal from the implanted medical device; and an external communications device connected to the wireless external receiver and configured to transmit a distress call in the form of a voice synthesized message which is met by the cellular telephone (figure 1, col. 6, lines 45-50, and col. 10, lines 11-20) to a remote location (figure 1, col. 5, lines 19-67, and col. 6, lines 1-50); and

Nappholz et al. do not directly disclose the voice synthesized message providing information about a nature of the human subject's condition as claimed. Since Nappholz et al. disclose the primary function of the cardiac stimulation device 12 is to monitor the heart of the patient (col. 10, lines 1-4) and exchanges signals between the device and the outside world, it would have been obvious to one of ordinary skill in the art to recognize that the system of Nappholz et al. is not only monitoring the heart of the patient but also providing information about a nature of the human subject's condition.

Regarding claim 14: Nappholz et al. disclose the distress call containing location information indicating a location of the external communication device (col. 10, lines 20-25).

Regarding claim 15: Nappholz et al. disclose the location information is included in the distress call (col. 3, lines 11-16).

Regarding claim 16: Nappholz et al. disclose the distress call containing vital data pertaining to an organ being monitored by the implanted medical device (col. 10, lines 1-15).

Regarding claim 18: Nappholz et al. disclose the implanted medical device comprising one of a pacemaker, and implantable cardioverter defibrillator and a combination thereof (col. 4, lines 3-35).

Regarding claim 21: Nappholz et al. disclose the implanted medical device comprising a transmitter configured to transmit the wireless signal and a heart regulating device (col. 5, lines 8-18).

Regarding claim 23: Nappholz et al. disclose the external communications device is configured to determine, prior to transmitting the distress call, that the wireless signal is

indicative of a medical emergency being experienced by a human being wearing the implanted medical device (col. 10, lines 1-20).

Regarding claim 41: Nappholz et al. disclose the external communications device is a cell phone (col. 3, lines 61-65).

Regarding claim 42: Nappholz et al. disclose a wireless power signal from the implanted medical device indicating a low battery power of the implanted medical device (col. 7, lines 8-16).

Regarding claim 43: Nappholz et al. disclose the external communications device is a cell phone (col. 3, lines 61-65).

Regarding claim 44: Nappholz et al. disclose a wireless power signal from the implanted medical device indicating a low battery power of the implanted medical device (col. 7, lines 8-16).

Regarding claim 47: All the claimed subject matter is already discussed in respect to claim 1 above. Nappholz et al. also disclose accessing a patient record from a database and displaying the patient record to an operator (col. 4, lines 11-16, and col. 8, lines 34-58).

Regarding claim 48: Refer to claim 1 above.

Regarding claim 49: Nappholz et al. disclose providing information about a nature of the human subject's condition in the event a patient wearing the implanted medical device is in capable of verbal communication (col. 10, lines 11-28).

Regarding claim 50: Nappholz et al. disclose the distress call containing vital data pertaining to an organ being monitored by the implanted medical device (col. 10, lines 1-15).

Regarding claim 51: Nappholz et al. disclose a wireless power signal from the implanted medical device indicating a low battery power of the implanted medical device (col. 7, lines 8-16).

3. Claims 40, 45, and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nappholz et al. (U.S. Pat. 5,720,770) in view of Nelson et al. (U.S. Pat. 6,564,104).

Regarding claim 40: Nappholz et al. disclose a monitor device and a wireless transmitter in communication with the monitoring device and configured to transmit a wireless distress signal in response to predetermined activity of the monitoring device (figure 1, col. 10, lines 1-16). Nappholz et al. teach sending out information signals related to monitored body conditions when an identification signal is received (col. 14, lines 14-30) rather than a wireless distress signal including at least one of serial number and the model number as claimed. However, using serial number and the model number as a confirmation of target device is old and well known in the art as taught by Nelson et al. (col.9, lines 17-25). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the technique of Nelson et al. in the system of Nappholz et al. in order to provide for authentication of target device if desired.

Regarding claim 45: Refer to claim 40 above.

Regarding claim 46: Nappholz et al. disclose a wireless power signal from the implanted medical device indicating a low battery power of the implanted medical device (col. 7, lines 8-16).

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. Lang et al. [U.S. Pat. 6,553,262] disclose an arrangement for patient monitoring.

b. Meadows et al. [U.S. Pat. 6,553,263] disclose an implantable pulse generators using rechargeable zero-volt technology lithium-ion batteries.

c. Snell [U.S. Pat. 6,263,245] discloses a system and method for portable implantable device interogation.

d. Munshi et al. [U.S. Pat. 5,411,537] disclose a rechargeable biomedical battery powered devices with recharging and control system therefor.

e. Duffin et al. [U.S. Pat. 6,292,698] disclose a world wide patient location and data telemetry system for implantable medical devices.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phung T Nguyen whose telephone number is 703-308-6252. The examiner can normally be reached on 8:00am-5:30pm Mon thru. Friday, with alternate Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel J. Wu can be reached on 703-308-6730. The fax numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-308-9051 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4700.

Examiner: Phung Nguyen

Date: March 19, 2004